

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Ackerman Analyst: Roger Lackey Bill Number: AB 197

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 07-06-99

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Limited Partnerships & Limited Liability Company Conversion

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 21, 1999, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

This bill would authorize California general partnerships to convert to California limited liability companies (LLCs) or California limited partnerships (LPs) and would authorize California LLCs and LPs to convert to general partnerships and foreign and other business entities.

This analysis will only address those provisions that impact the department.

SUMMARY OF AMENDMENT

The July 6, 1999, amendment made technical changes to the language of the bill.

The June 29, 1999, amendment added additional language that if the other party to a transaction with a limited partnership or LLC reasonably believes when entering the transaction that the limited partner or LLC member is a general partner, the limited partner or LLC member is liable for any obligation incurred by the limited partnership or LLC within 90 days after the conversion takes effect. For all other obligations of the limited partnership or LLC after the conversion takes effect, the limited partner's or LLC member's obligation is that of a limited partner or LLC member.

In addition, the June 29 amendment provided that for the purpose of the Uniform Partnership Act of 1994, the term "Partnership" does not include any partnership formed under the Uniform Limited Partnership Act or the California Revised Limited Partnership Act.

The implementation consideration identified in the department's analysis of AB 197 as introduced January 21, 1999, are provided below for the author's convenience.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas 7/23/1999

Except for the discussion above, the department's analysis of AB 197 as introduced January 21, 1999, still applies.

Implementation Considerations

This bill provides that an LLC that converts to another entity such as an LP would be for all purposes the same entity that existed before the conversion. However, the bill also provides that the filing of a statement of conversion has the same effect as the filing of a certificate of cancellation by the converting entity. The bill is silent on the tax consequences of the conversion. For tax purposes, LPs and LLCs have distinct filing requirements and tax liabilities. As a result, the FTB would administer the bill by requiring the converted entity to file a short-period return for the taxable year ending on the date of cancellation, and the new entity would then be subject to all of the filing requirements and tax obligations for that new entity from the date of conversion.

BOARD POSITION

Pending.